

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS

Plaintiff

v.

CARDIAC SCIENCE, INC., et al;

Defendants

Civil Action: **04-30126-MAP**

FILED
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2005 OCT 17 P 2:28
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PLAINTIFF'S MOTION FOR DECLARATORY JUDGMENT

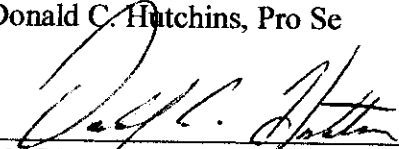
The Plaintiff, Donald C. Hutchins respectfully requests that this Honorable Court grant Plaintiff's Motion for Declaratory Judgment. In support thereof, the Plaintiff submits the attached Memorandum of Law in Support of Plaintiff's Motion for Declaratory Judgment.

The Compliant Corporation ("Compliant") has filed a motion requesting this court to take judicial notice of Cuyahoga County, Ohio Case No. 540066. Compliant's stated reason for this motion is to use Case No. 540066 in terms of *res judicata* to bolster the Compliant Corporation's motion for summary judgment. Compliant has not met the burden for *res judicata* of proving by a preponderance of the evidence that any issue was previously raised and decided by a tribunal in Ohio Case No. 540066.

A proposed Order is attached hereto.

Donald C. Hutchins, Pro Se

Dated: October 17, 2005


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(413) 567-0606

CERTIFICATE OF SERVICE

I, Donald C. Hutchins, 1047 Longmeadow Street, Longmeadow, Massachusetts 01106, hereby certify that I served a copy of the foregoing on the appropriate party by sending a copy by U.S. First Class Mail to:

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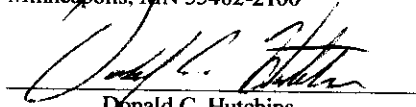
and

and

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Dated: 10/17/05


Donald C. Hutchins

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS

Plaintiff

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Civil Action: 04-30126-MAP

DECLARATORY JUDGMENT

The Court makes the following findings on Plaintiff's Motion for Declaratory Judgment:

The Court finds that Hutchins' Complaint in Civil Action: 04-30126-MAP is legitimate.

The Court also finds that the Compliant Corporation has not met the burden for *res judicata* of proving by a preponderance of the evidence that any issue was previously raised and decided by a tribunal in Case No. 5400066.

The Court also finds that the Compliant Corporation has furnished no written opinion, no transcripts and no record of deliberation for determining the reason for the trial courts rulings and judgment in Case No. 5400066 sufficient for the purposes of *res judicata*.

Justice of the United States District Court

Dated: _____